

**Introduced by Senator Correa**

February 8, 2011

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An act to amend Sections 31520.1, 31520.2, 31520.3, 31520.4, and 31520.5 of, to add Section 31523.1 to, and to repeal and add Section 31523 of, the Government Code, relating to county retirement.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 203, as introduced, Correa. County employee retirement: boards.

(1) The County Employees Retirement Law of 1937 sets forth the membership composition for boards of retirement, as specified. Under that law, the retirement board in specified counties is comprised of 9 members and an alternate member who is the candidate for the 7th member from the group of safety members, under specified provisions, that is not represented by a board member who received the highest number of votes for all candidates in that group, except as specified. The alternate member has, unless prohibited by a resolution or regulation of the board, the same rights, privileges, responsibilities, and access to closed sessions, as the 2nd, 3rd, 7th, and 8th member and the right to hold positions on committees of the board independent of the 2nd, 3rd, 7th, or 8th member, and to participate in the deliberations of the board or its committees, as specified.

This bill would delete the authority of the board to prohibit, by a resolution or regulation of the board, a member from having the same rights, privileges, responsibilities, and access to closed sessions as the 2nd, 3rd, 7th, or 8th member, or from holding positions on committees of the board, and participating in board or committee deliberations, as described above. The bill would authorize the alternate 7th member to participate in the deliberations of the board on any of its committees to which the alternate 7th member has been appointed regardless of

whether the 2nd, 3rd, 7th, or 8th member is present. The bill would require the board to cause an election to be held at the earliest possible date to fill a vacancy for the duration of the current term, except as specified, if there is a vacancy in the 2nd, 3rd, 7th, 8th, or alternate 7th member position. It would limit candidacy to the 7th member and alternate member positions, as specified. The bill would require the board of supervisors to forgo an election in specified circumstances when there is only one candidate. The bill would also make various changes in terminology and delete obsolete references.

(2) Existing law prescribes the manner of appointing an alternate retired member to the office of the 8th member of the board of retirement. If there is a vacancy with respect to the 8th member, existing law requires that the alternate retired member fill the vacancy until a successor qualifies. Existing law authorizes the alternate retired member to hold positions on committees of the board independent of the 8th member and to participate in the deliberations of the board or its committees regardless of whether the 8th member is present, unless prohibited by resolution or regulation of the board.

This bill would instead require the board of retirement to, by majority vote, appoint a replacement alternate member, in the same manner as prescribed for the initial appointment of an alternate retired member, who shall serve until the expiration of the current term of the current member. The alternate retired member would have the same rights, privileges, responsibilities, and access to closed sessions as the 8th member, except as specified. The bill would also delete the authority of the board to prohibit the alternate retired member from holding positions on committees of the board or participating in the deliberations of the board or any of its committees to which the alternate retired member has been appointed, as described above. The bill would also make changes in terminology.

(3) Existing law permits the board of supervisors in a county in which the assets of the retirement system exceed \$800,000,000 to establish a board of investments, to consist of 9 members of specified classifications, which is responsible for the investments of the retirement system. Existing law prescribes the terms for the members of the board of investments.

This bill would prescribe a process for filling vacancies in specified positions on a board of investments, as described above. The bill would require the board to cause an election to be held at the earliest possible date to fill those vacancies, except as specified, with a replacement

member to serve for the duration of the current term, unless the remaining portion is 6 months or less, in which case concurrent elections would be authorized to be held for the vacant term position and the succeeding term position. The bill would require the board of supervisors to forgo an election in specified circumstances when there is only one candidate. The bill would also delete obsolete references and establish the initial term of a person appointed as a 9th member.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 31520.1 of the Government Code is  
2 amended to read:  
3 31520.1. (a) In any county subject to Articles 6.8 (commencing  
4 with Section 31639) and 7.5 (commencing with Section 31662.2),  
5 the board of retirement shall consist of nine members and one  
6 alternate, one of whom shall be the county treasurer. The second  
7 and third members of the board shall be members of the  
8 association, other than safety members, elected by those members  
9 within 30 days after the retirement system becomes operative in  
10 a manner determined by the board of supervisors. The fourth, fifth,  
11 sixth, and ninth members shall be qualified electors of the county  
12 who are not connected with the county government in any capacity,  
13 except one may be a supervisor, and shall be appointed by the  
14 board of supervisors. A supervisor appointed as a member of the  
15 retirement board may not serve beyond his or her term of office  
16 as supervisor. The seventh member shall be a safety member of  
17 the association elected by the safety members. The eighth member  
18 shall be a retired member elected by the retired members of the  
19 association in a manner to be determined by the board of  
20 supervisors. The alternate member shall be that candidate, if any,  
21 for the seventh member from the group under Section 31470.2 or  
22 31470.4, or any other eligible safety member in a county if there  
23 is no eligible candidate from the groups under Sections 31470.2  
24 and 31470.4, which is not represented by a board member who  
25 received the highest number of votes of all candidates in that ~~group~~  
26 *group, and shall be referred to as the alternate seventh member.*  
27 If there is no eligible candidate there may not be an alternate  
28 *seventh* member. The first person chosen as the second and fourth

1 members shall serve for a term of two years beginning with the  
2 date the system becomes operative, the third and fifth members  
3 shall serve for a term of three years beginning with that date, and  
4 the sixth, seventh and alternate *seventh* members shall serve for a  
5 term of two years beginning ~~January 1, 1952, or~~ on the date on  
6 which a retirement system established by this chapter becomes  
7 ~~operative, whichever is the later.~~ *operative*. The eighth and ninth  
8 members shall take office as soon as practicable for an initial term  
9 to expire concurrent with the expiration of the longest remaining  
10 term of an elected member. Thereafter, the terms of office of the  
11 elected, appointed, and alternate *seventh* members are three years.  
12 ~~years, except as provided in Section 31523.~~

13 (b) The alternate *seventh* member provided for by this section  
14 shall vote as a member of the board only if the second, third,  
15 seventh, or eighth member is absent from a board meeting for any  
16 cause, or if there is a vacancy with respect to the second, third,  
17 seventh, or eighth member, the alternate *seventh* member shall fill  
18 the vacancy until a successor qualifies. The alternate *seventh*  
19 member shall sit on the board in place of the seventh member if a  
20 member of the same service is before the board for determination  
21 of his or her retirement.

22 (c) ~~Unless prohibited by a resolution or regulation of the board,~~  
23 ~~the~~ The alternate *seventh* member shall be entitled to both of the  
24 following:

25 (1) The alternate *seventh* member shall have the same rights,  
26 privileges, responsibilities, and access to closed sessions as the  
27 second, third, seventh, and eighth member.

28 (2) The alternate *seventh* member may hold positions on  
29 committees of the board independent of the second, third, seventh,  
30 or eighth member and may participate in the deliberations of the  
31 board or *any of its committees to which the alternate seventh*  
32 *member has been appointed* whether or not the second, third,  
33 seventh, or eighth member is present.

34 (d) ~~The amendments to this section during the 1972 Regular~~  
35 ~~Session do not affect the continuation on the board of retired~~  
36 ~~members appointed by the board of supervisors until the expiration~~  
37 ~~of the term for which they were appointed.~~

38 SEC. 2. Section 31520.2 of the Government Code is amended  
39 to read:

31520.2. (a) In any county in which the assets of the retirement system exceed eight hundred million dollars (\$800,000,000), the board of supervisors may, by resolution, establish a board of investments. The board shall consist of nine members, one of whom shall be the county treasurer. The second and third members shall be general members of the association elected by the general membership of the association for a three-year term and, on the effective date of the amendment to this section during the 1970 Regular Session, shall also be members of the board of retirement. *term.* The fourth member shall be a safety member elected by the safety membership of the association for a three-year term and, on the effective date of the amendment to this section during the 1970 Regular Session, shall also be a member of the board of retirement. *term.* The eighth member shall be a retired member of the association elected by the retired membership of the association for a three-year term and, on the effective date of the amendment to this section during the 1976 Regular Session, shall also be a member of the board of retirement. *term.* The fifth, sixth, seventh, and ninth members shall be qualified electors of the county who are not connected with county government in any capacity, and shall be appointed by the board of supervisors. They shall also have had significant experience in institutional investing, either as investment officer of a bank, or trust company; or as investment officer of an insurance company, or in an active, or advisory, capacity as to investments of institutional or ~~endowment~~ *endowment* funds. The first person chosen as a fifth, sixth, or seventh member, shall serve for ~~three years~~, *a three-year term*, the second person chosen shall serve a four-year term, and the third person chosen shall serve a two-year term. *The first person appointed as the* ninth member shall ~~be appointed for the balance of serve a term ending December 31, 1978; one-year term.~~ Thereafter, all terms of all appointed members shall be three years. ~~The general members, the safety member, and the retired member shall serve on the board of investment until their current term as members of the board of retirement expires.~~

~~The~~

(b) *The* board of investment shall be responsible for all investments of the retirement system.

SEC. 3. Section 31520.3 of the Government Code is amended to read:

1 31520.3. (a) Notwithstanding Section 31520.1, the board of  
2 retirement of a county of the 16th class, as defined by Sections  
3 28020 and 28037, as amended by Chapter 1204 of the Statutes of  
4 1971, may, by majority vote, appoint, from a list of nominees  
5 submitted by an organization consisting solely of retired members,  
6 an alternate retired member to the office of the eighth member,  
7 who shall serve until the expiration of the current term of the  
8 current eighth member and thereafter the alternate retired member  
9 shall be elected by the retired members of the association in the  
10 same manner and at the same time as the eighth member is elected.  
11 ~~The term of office of the alternate retired member shall run~~  
12 ~~concurrently with the term of office of the eighth member. The~~  
13 ~~alternate retired member shall vote as a member of the board only~~  
14 ~~in the event the eighth member is absent from a board meeting for~~  
15 ~~any cause. If there is a vacancy with respect to the eighth member,~~  
16 ~~the alternate retired member shall fill that vacancy until a successor~~  
17 ~~qualifies. The alternate retired member shall be entitled to the same~~  
18 ~~compensation as the eighth member for attending a meeting,~~  
19 ~~pursuant to Section 31521, whether or not the eighth member is~~  
20 ~~in attendance at those meetings. In the event that this section is~~  
21 ~~made applicable in any county, by the appointment of an alternate~~  
22 ~~eighth member, the alternate safety member shall not sit and act~~  
23 ~~for the eighth member, except as described in subdivision (b).~~

24 *(b) The term of office of the alternate retired member shall run*  
25 *concurrently with the term of office of the eighth member. The*  
26 *alternate retired member shall vote as a member of the board only*  
27 *in the event the eighth member is absent from a board meeting for*  
28 *any cause. If there is a vacancy with respect to the eighth member,*  
29 *the alternate retired member shall fill that vacancy for the*  
30 *remainder of the eighth member's term of office.*

31 *(c) Except as provided in subdivision (b), the alternate retired*  
32 *member shall be entitled to the same rights and privileges and*  
33 *shall have the same responsibilities and access to closed sessions*  
34 *as the eighth member. The alternate retired member may hold*  
35 *positions on committees of the board independent of the eighth*  
36 *member and may participate in the deliberations of the board or*  
37 *any of its committees to which the alternate retired member has*  
38 *been appointed whether or not the eighth member is present.*

39 *(d) The alternate retired member shall be entitled to the same*  
40 *compensation as the eighth member for attending a meeting,*

1 *pursuant to Section 31521, whether or not the eighth member is*  
2 *in attendance at those meetings.*

3 *(e) (1) In the event that this section is made applicable in any*  
4 *county, by the appointment of an alternate eighth member, the*  
5 *alternate seventh member shall not sit and act for the retired*  
6 *member, except as described in paragraph (2).*

7 ~~(b)~~

8 (2) If both the eighth member and the alternate retired member  
9 are not attending a meeting, the alternate ~~safety~~ *seventh* member  
10 may sit and act for the eighth member as described in Section  
11 31520.1.

12 SEC. 4. Section 31520.4 of the Government Code is amended  
13 to read:

14 31520.4. In any county with a board of retirement composed  
15 of nine members pursuant to Section 31520.1, if the second, third,  
16 seventh, or alternate *seventh* member of the board is injured or  
17 killed while performing his or her duties as a member of the board,  
18 that member shall be deemed to have been acting in the course  
19 and scope of his or her duties as an employee of the county or  
20 district employing the member, for the limited purpose of  
21 determining eligibility for workers' compensation benefits or  
22 disability or death benefits from the retirement system.

23 This section shall not be operative in any county until the board  
24 of supervisors, by resolution adopted by a majority vote, makes  
25 this section operative in that county.

26 SEC. 5. Section 31520.5 of the Government Code is amended  
27 to read:

28 31520.5. (a) Notwithstanding Section 31520.1, in any county  
29 subject to Articles 6.8 (commencing with Section 31639) and 7.5  
30 (commencing with Section 31662), the board of retirement may,  
31 by majority vote, appoint, from a list of nominees submitted by a  
32 qualified retiree organization, an alternate retired member to the  
33 office of the eighth member, who shall serve until the expiration  
34 of the current term of the current eighth member. Thereafter, the  
35 alternate retired member shall be elected separately by the retired  
36 members of the association in the same manner and at the same  
37 time as the eighth member is elected. An organization shall be  
38 deemed to be a "qualified retiree organization" for purposes of  
39 this subdivision if a majority of the members of the organization  
40 are retired members of the system.

(b) The term of office of the alternate retired member shall run concurrently with the term of office of the eighth member. The alternate retired member shall vote as a member of the board only in the event the eighth member is absent from a board meeting for any cause. If there is a vacancy with respect to the eighth member, the alternate retired member shall fill that vacancy ~~until a successor qualifies. Except as provided in subdivision (c) and as otherwise provided in this subdivision, for the alternate retired member shall be entitled to remainder of the same rights and privileges and shall have the same responsibilities and access to closed sessions as the eighth member.~~ *eighth member's term of office.*

(c) *Except as otherwise provided in this section, the alternate retired member shall be entitled to the same rights and privileges and shall have the same responsibilities and access to closed sessions as the eighth member.*

(e)

(d) The alternate retired member may hold positions on committees of the board independent of the eighth member and may participate in the deliberations of the board or *any of its committees whether or not the eighth to which the alternate retired member is present, unless prohibited by resolution or regulation of the board.* ~~has been appointed whether or not the eighth member is present.~~

(d)

(e) The alternate retired member shall be entitled to the same compensation as the eighth member for attending a meeting, pursuant to Sections 31521 and 31521.1, whether or not the eighth member is in attendance at those meetings.

(e)

(f) (1) If this section is made applicable in any county, by the appointment of an alternate eighth member, the alternate ~~safety~~ *seventh* member shall not sit and act for the eighth member, except as described in paragraph (2).

(2) If both the eighth member and the alternate retired member are not attending a meeting, the alternate ~~safety~~ *seventh* member may sit and act for the eighth member as described in Section 31520.1.

SEC. 6. Section 31523 of the Government Code is repealed.

~~31523. If a vacancy on the board occurs for any cause or on the expiration of the term of office of any member, a successor~~

1 shall be chosen in the same manner as was his predecessor, except  
2 that if an election to fill a vacancy for the second, third, seventh  
3 or eighth member has been called and only one member has been  
4 duly nominated in accordance with the rules established for the  
5 holding of such election, the board of supervisors shall order that  
6 no election be held and shall direct the clerk to cast a unanimous  
7 ballot in favor of such nominated member.

8 SEC. 7. Section 31523 is added to the Government Code, to  
9 read:

10 31523. (a) In the event of a vacancy in the second, third,  
11 seventh, eighth, or alternate seventh member position on the board  
12 of retirement, the board shall cause an election to fill the vacancy  
13 to be held at the earliest possible date, except as provided in  
14 Sections 31520.3 and 31520.5. The vacancy in the second, third,  
15 or eighth member position on the board of retirement shall be filled  
16 for the duration of the current term except that, if the remaining  
17 portion of the current term is six months or less on the date of the  
18 election, concurrent elections may be held to fill the vacancy for  
19 the remainder of the current term and to fill the position for the  
20 succeeding term. With respect to a vacancy in the seventh member  
21 position, candidates shall be a safety member from a group which  
22 is not represented by an incumbent alternate seventh member. With  
23 respect to the alternate seventh member position, the candidates  
24 shall be limited to the group under Sections 31470.2 or 31470.4,  
25 or any other eligible safety member in a county if there is no  
26 eligible candidate from the groups under Sections 31470.2 and  
27 31470.4 that is not represented by an incumbent seventh board  
28 member. The successful candidate shall serve for the duration of  
29 the current term.

30 (b) If there is a vacancy with respect to the alternate retired  
31 member, the board of retirement shall, by majority vote, appoint  
32 a replacement alternate member in the same manner as prescribed  
33 in Sections 31520.3 and 31520.5 for the initial appointment of an  
34 alternate retired member, who shall serve until the expiration of  
35 the current term of the current eighth member.

36 (c) If an election has been called on the expiration of the term  
37 of office of any member or alternate member, or to fill a vacancy  
38 for the second, third, seventh, eighth, or alternate seventh member  
39 of a board of retirement, and only one candidate has been duly  
40 nominated in accordance with the rules established for the holding

1 of that election, the board of supervisors shall order that no election  
2 be held and shall direct the clerk to cast a unanimous ballot in  
3 favor of the candidate.

4 SEC. 8. Section 31523.1 is added to the Government Code, to  
5 read:

6 31523.1. (a) In the event of a vacancy in the second, third,  
7 fourth, or eighth member position on a board of investments  
8 established pursuant to Section 31520.2, the board of investments  
9 shall cause an election to be held at the earliest possible date to  
10 fill the vacancy. The vacancy in the second, third, fourth, or eighth  
11 member position shall be filled for the duration of the current term  
12 except that, if the remaining portion of the current term on the date  
13 of the election is six months or less, concurrent elections may be  
14 held to fill the vacancy for the remainder of the current term and  
15 to fill the position for the succeeding term.

16 (b) If an election has been called on the expiration of the term  
17 of office of any member, or to fill a vacancy for the second, third,  
18 fourth, or eighth member position of a board of investments, and  
19 only one candidate has been duly nominated in accordance with  
20 the rules established for the holding of that election, the board of  
21 supervisors shall order that no election be held and shall direct the  
22 clerk to cast a unanimous ballot in favor of the candidate.